

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
N/S Glenhurst Road, 224' W of * ZONING COMMISSIONER
the c/l of Edgewater Place
(3934 Glenhurst Road) * OF BALTIMORE COUNTY
15th Election District
7th Councilmanic District * Case No. 92-139-A
Jane E. Rau
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing shed to be located 6 inches from the side property line in lieu of the minimum required 2.5 feet; and for an existing gazebo to be located in the front yard on the side property line in lieu of the required rear yard, with a minimum side setback of 2.5 feet, all as more particularly described on Petitioner's Exhibit 1.

The Petitioner originally filed her request through the administrative variance procedure. Upon receipt of a written request from the adjoining property owner, Mrs. Emma Ayers, I scheduled a public hearing to determine the appropriateness of the relief requested.

At the hearing, the Petitioner, Jane E. Rau, appeared, testified and was represented by Ronald A. Decker, Esquire. Although Mrs. Ayers filed the request for hearing as a Protestant in the matter, she did not appear. However, her attorney, Sharon L. Guida, Esquire, appeared on her behalf. Joseph Larson, a Professional Engineer and Land Surveyor with Spellman, Larson & Associates, Inc., also appeared and testified on behalf of the Protestant.

Testimony established that the subject property, known as 3934 Glenhurst Road, consists of 9,350 sq.ft. zoned D.R. 5.5 and is improved

with a single family dwelling, garage, gazebo and shed. Said property is located within the Chesapeake Bay Critical Areas on Back River.

In considering the relief requested, the characteristics of the subject lot must be examined. As is the case with most waterfront property in Baltimore County, the rear of the lot abuts a public road and the front faces the water. The subject property is approximately 50 feet wide and varies in depth from 185 feet to 190 feet, more or less. The dwelling features two porches facing both the front and rear yards and the 20' x 24' garage is located in the southeast corner of the rear yard near Glenhurst Road. As indicated above, a variance is sought for an 8' x 12' shed which is located in the southwest corner of the rear yard abutting the side property line adjoining the Ayers' property and the road. It is to be noted from the photographs submitted that the subject shed is located immediately adjacent to the Ayer's garage. This is significant in that it is clear that the location of the shed does not cause any detrimental effect to the Ayer's property. That is, there is no blockage of site distance or any aesthetic diminution of the Ayers' property due to the shed's location. Further, in that the shed has been modified by the installation of rain gutters and downspouts, there is no runoff from same onto the Ayers' property. In view of these findings, I am convinced that the placement of the shed where located is not detrimental to the Ayers' property or the surrounding locale. Thus, the Petitioner has satisfied that portion of the standard for variances as found in Section 307 of the B.C.Z.R. which requires that there be no detrimental effect to the surrounding locale.

As to the other prong of the variance standard, I am likewise persuaded that the Petitioner has met her burden of practical difficulty.

- 2 -

Mrs. Rau testified that the current shed replaced a shed which had existed on the property in the same location but had been destroyed by termites. Further, she indicated that it was necessary to have this covered storage area to keep her lawn mower and other heavy garden equipment. She noted that the shed is not permanently affixed to the property and is situated on an existing base. Lastly, and most importantly, because of underground utility cables, the shed cannot be relocated further from the side property line. For these reasons, I am convinced that the Petitioner has fully met her burden for the variance to be granted as prescribed in Section 307 of the B.C.Z.R.

Consideration of the other variances is more difficult. These variances arise as a result of the construction of a gazebo in the extreme front yard of the property, on the side property line, immediately adjacent to the bulkhead which abuts Back River. The history of this structure is significant. It appears that at least since the Petitioner's acquisition of the property in 1956, a concrete block building has existed beneath the gazebo's current location. As is shown in the photographs of the site, this building is below ground level of the Petitioner's back yard, due to the bluff which overlooks Back River. In essence, the building is built into that bluff. Originally, a chicken coop was attached to the roof of the concrete block building. Subsequent to the death of Mrs. Rau's husband in 1990, the coop was razed because it had become termite infested. Shortly thereafter, Mrs. Rau extended the concrete slab roof, which had also served as the base of the chicken coop, and installed a hand rail around the perimeter of the concrete slab. This improvement essentially converted the roof of the concrete building to a patio. Mrs. Rau later improved the structure by the placement of a roof over the newly created patio. This

- 3 -

was done because a shade tree located near that portion of the property was removed due to termite infestation. Ultimately, in order to eliminate any runoff/erosion problem, gutters and downspouts were added.

Counsel for both parties have submitted memoranda in support of their respective positions. Essentially, the Petitioner argues that she has replaced the old, decrepit concrete roof and coop with an aesthetically pleasing gazebo. Further, the Petitioner notes that the concrete building which serves as the base for the gazebo has existed for many years. Lastly, it is noted that by installation of the gutters and downspouts, there is no adverse runoff and subsequent erosion to the Ayers' property. Thus, it is claimed that there is no detriment to the adjacent property by the placement of the gazebo where it is currently situated.

In opposition, Counsel for the Protestant argues that the Petitioner has not met her burden for establishing the criteria necessary to justify the variances. It is argued that the Petitioner's problem is self-created and that the gazebo was constructed solely for the Petitioner's benefit and convenience. Further, it is suggested by the Protestant that the gazebo may violate certain restrictive covenants within the deed to the property and actually encroach onto the Ayers' property. These allegations, even if true, are nonetheless beyond the purview of my examination. I must restrict my inquiry to an evaluation of the Petition pursuant to the B.C.Z.R. and will leave these issues to be resolved by the Court pursuant to any suit for trespass and/or to enforce the alleged covenants.

In considering the respective positions of the parties, I am particularly interested in Mr. Larson's testimony and report. This witness, who was retained and produced by the Protestant, convinces me that

- 4 -

there is no real detriment caused by the current placement of the gazebo. Mr. Larson's report indicates that since the gutter and downspout construction, storm water has been redirected away from the Ayers' property. In fact, he acknowledged that these corrective measures have cured any detrimental physical effects on the Ayers' property. Notwithstanding this concession, the Protestant argues that the violation of the setback requirements in and of itself forms a sufficient basis to deny the variances. I am not persuaded to adopt the Protestant's argument.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare. Even if I were to deny the variance and order the removal of the gazebo, the concrete building and its roof would remain. I believe that such an order would unnecessarily burden the property

owner. The gazebo, in my view, complies with the standards as set forth in Anderson, supra.

This property is located within the Chesapeake Bay Critical Areas and as such, is subject to the recommendations of the Department of Environmental Protection and Resource Management upon completion of their findings. The granting of the relief requested is conditioned upon Petitioner's compliance with any recommendations made by DEPRM.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 13th day of January, 1992 that the Petition for Zoning Variances from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing shed to be located 6 inches from the side property line in lieu of the minimum required 2.5 feet; and for an existing gazebo to be located in the front yard on the side property line in lieu of the required rear yard, with a minimum side setback of 2.5 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted shall be rescinded.
- 2) Compliance with the Chesapeake Bay Critical Areas recommendations submitted by the Department of Environmental Protection and Resource Management upon completion of their findings.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

- 5 -

Baltimore County Government
Zoning & Administrative
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

January 13, 1992

(410) 887-4386

Ronald A. Decker, Esquire
4111 E. Joppa Road, Suite 201
Baltimore, Maryland 21236

RE: PETITION FOR ZONING VARIANCE
N/S Glenhurst Road, 224' W of the c/l of Edgewater Place
(3934 Glenhurst Road)
15th Election District - 7th Councilmanic District
Jane E. Rau - Petitioner
Case No. 92-139-A

Dear Mr. Decker:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Sharon L. Guida, Esquire
250 W. Pratt Street, 13th Floor, Baltimore, Md. 21201

Chesapeake Bay Critical Areas Commission
Tawes State Office Building, D-4, Annapolis, Md. 21404

DEPRM; People's Counsel; file

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
N/S Glenhurst Road, 224 ft. W * ZONING COMMISSIONER
of c/l of Edgewater Place
(3934 Glenhurst Road) * OF BALTIMORE COUNTY
15th Election District * Case No. 92-139-A
7th Councilmanic District
Jane E. Rau
Petitioner

AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter originally came before the Zoning Commissioner as a Petition for Zoning Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). Under the Petition, the Petitioner/property owner requested a variance to permit an existing shed to be located 6 inches from the side property line in lieu of the minimum required 2.5 ft.; and for an existing gazebo to be located in the front yard on the side property line, in lieu of the required rear yard, with a minimum side setback of 2.5 ft. The case was scheduled for and a public hearing was held. At that hearing, the Petitioner/property owner appeared and was represented by counsel. Appearing in opposition to the Petition was Sharon L. Guida, Esquire on behalf of Emma G. Ayers. Mrs. Ayers did not appear and, in lieu thereof, sent her attorney.

After the hearing, memorandums were submitted by both parties, and an Order was issued on January 13, 1992 granting the Petitioner her request for variance, with restrictions.

Subsequent to the publication of the aforementioned Order, the Zoning Commissioner received correspondence on February 13, 1992 from Mrs. Emma G. Ayers dated February 5, 1992. This correspondence will be accepted as a Motion for Reconsideration of the Order of the Zoning Commissioner

On January 13, 1991, Attorney, the correspondence speaks for itself. It should be noted that Mrs. Ayers offers at least two (2) arguments in opposition to the Petition.

First, she alleges that evidence was offered that the patio which constituted the base for the deck had existed for 15 years. However, it is clear within my order that this allegation is not correct. Specifically, on page 3 of the order of January 13, 1991, it is noted that the patio was constructed after Mrs. Rau's husband's death in 1990.

Second, Mrs. Ayers opines that this Petition should be denied because construction commenced without the petitioner obtaining a building permit or applying for the variance beforehand. Although, I am appreciative of the petitioner's objection in this regard, I am bound to consider the variance within the standards set forth in Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.). Further, I must follow the existing case law.

In reconsidering my decision further, I remain convinced that my order dated January 13, 1991 is correct. Therefore, same shall be confirmed.

WHEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 14th day of February, 1992 that the previous Order of the Zoning Commissioner dated January 13, 1991 be and is hereby affirmed in its entirety.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

PETITION FOR RESIDENTIAL VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY, 92-139-A CRITICAL

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, petition for a Variance from Section 400.1 to allow: (a) a shed to be located six inches from the side property line in lieu of the required 2 1/2 feet; and (b) a gazebo to be located in the front yard on the property line, in lieu of being located in the rear yard with a side setback of 2 1/2 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reason (Indicate hardship or practical difficulty)

(See attached)

Property is to be advertised and/or posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Variance posting and, if necessary, advertising, upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City/State/Zip Code

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City/State/Zip Code

Attorney's telephone number:

Legal Owner(s):

(Type or Print Name)

Signature

Address

City/State/Zip Code

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A PUBLIC HEARING HAVING BEEN REQUESTED AND/OR FOUND TO BE REQUIRED, IT IS FURTHER ORDERED by the Zoning Commissioner of Baltimore County, this 14th day of February, 1992, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the property be reported, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 105, County Office Building in Towson, Baltimore County.

ORDER RECEIVED FOR FILING

Date: 1/15/92

By: [Signature]

REVIEWED BY: [Signature] DATE: 1/15/92

ZONING COMMISSIONER OF BALTIMORE COUNTY

ZONING COMMISSIONER OF BALTIMORE COUNTY

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 1504 Date of Posting: 1/14/92

Posted for: [Signature]

Petitioner: [Signature]

Location of property: [Address]

Location of Signs: [Address]

Remarks: [Text]

Posted by: [Signature]

Number of Signs: [Text]

CERTIFICATE OF PUBLICATION

TOWSON, MD. Nov. 7, 1991

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published County, Md., once in each of 1, successive ation appearing on Nov. 7, 1991.

THE JEFFERSONIAN.

Publisher

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property described herein in Room 105 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-139-A
115 Glenhurst Road, 224' W of Edgewater Place
3924 Glenhurst Road
15th Election District
7th Councilmanic District

Petitioner(s):
Jane E. Rau
Hearing Date: Tuesday, November 26, 1991 at 10:00 a.m.

Variance: to allow a shed to be located six inches from the side property line in lieu of the required 2 1/2 feet, and to allow a gazebo to be located in the front yard on the property line in lieu of being located in the rear yard with a side setback of 2 1/2 feet.

LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
11-046 November 7

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property described herein in Room 105 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-139-A
115 Glenhurst Road, 224' W of Edgewater Place
3924 Glenhurst Road
15th Election District
7th Councilmanic District

Petitioner(s):
Jane E. Rau
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Variance: to allow a shed to be located six inches from the side property line in lieu of the required 2 1/2 feet, and to allow a gazebo to be located in the front yard on the property line in lieu of being located in the rear yard with a side setback of 2 1/2 feet.

LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
11-046 November 7

Baltimore County
Zoning Commissioner
County Office Building
West Chesapeake Avenue
Towson, Maryland 21204

10/01/91

PUBLIC HEARING FEES QTY PRICE
100 - ZONING VARIANCE (1RL) 1 X \$35.00
100 - POSTING SIGNS / ADVERTISING 1 X \$25.00
TOTAL: \$60.00

LAST NAME OF OWNER: RAU

PAID PER HAND-WRITTEN RECEIPT
DATED 9/23/91

CRITICAL AREA receipt

Account: R-001-6150
Number: H9200157

Cashier Validation

Receipt

Date

Number

Cashier Validation

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 1504 Date of Posting: 1/14/92

Posted for: [Signature]

Petitioner: [Signature]

Location of property: [Address]

Location of Signs: [Address]

Remarks: [Text]

Posted by: [Signature]

Number of Signs: [Text]

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

#157
CRITICAL

receipt

Account: R-001-6150
Number

\$60.00 Variance Petition

Computer Down (Sophie will write Item #)

Please Make Checks Payable To: Baltimore County
12-003-12P409-23-91

ZONING DESCRIPTION

Beginning at a point on the north side of Glenhurst Road right of way which is 50' wide at a distance of 224' west of the centerline of the nearest improved intersecting street, Edgewater Place, which is 40' wide. Being known and designated as Lot No. 5 on Glenhurst Road as shown on the Plat of Sub-division of Property of Miller Nelson, Inc. known as "Glenhurst", said plat being recorded among the Plat Records of Baltimore County, in Plat Book C.W.B., Jr. No. 12 folio 22. The improvements thereon being as No. 3934 Glenhurst Road, and located in the 15th Election District.

92-139-A

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887 4454

DATE:

Jane E. Rau
3934 Glenhurst Road
Baltimore, Maryland 21222

RE:
CASE NUMBER: 92-139-A
115 Glenhurst Road, 224' W of Edgewater Place
3924 Glenhurst Road
15th Election District - 7th Councilmanic
District
Petitioner(s): Jane E. Rau
HEARING: TUESDAY, NOVEMBER 26, 1991 at 10:00 a.m.

Dear Petitioner(s):

Please be advised that \$60.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

[Signature]
Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: Ronald A. Decker, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3354

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-139-A
W/S Glenhurst Road, 224' W of c/l Edgewater Place
3924 Glenhurst Road
15th Election District - 7th Councilmanic
Petitioner(s): Jane E. Rau
HEARING: TUESDAY, NOVEMBER 26, 1991 at 10:00 a.m.

Variance to allow a shed to be located six (6) feet from the side property line in lieu of the required 2-1/2 feet; and to allow a gazebo to be located in the front yard on the property line in lieu of being located in the rear yard with a side setback of 10 feet.

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner of
Baltimore County

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3354

October 21, 1991

Ronald A. Decker, Esquire
Moore, Carney, Ryan and Lattanzi
4111 E. Joppa Road
Baltimore, MD 21236

RE: Item No. 157, Case No. 92-139-A
Petitioner: Jane E. Rau
Petition for Residential Variance

Dear Mr. Decker:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby reasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Zoning Plans Advisory Committee Comments
Date: October 21, 1991
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Jane E. Rau
3934 Glenhurst Road
Baltimore, MD 21222

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3354

Your petition has been received and accepted for filing this 23rd day of September, 1991.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:
James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Jane E. Rau
Petitioner's Attorney: Ronald A. Decker

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: October 9, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Budziak Property, Item No. 144
Armstrong Property, Item No. 145
Fogle Property, Item No. 149
Chabrows Property, Item No. 151
Rau Property, Item No. 157
Ogundeji Property, Item 158

In reference to the petitioners' request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn
ITWNO144/XTXROZ

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: October 23, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: October 8, 1991

This office has no comments for item numbers 144, 145, 147, 149, 150, 151, 152, 157 and 158.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJP/lvd

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21204-5500

OCTOBER 18, 1991

(301) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: JANE E. RAU
Location: 3934 GLENHURST ROAD
Item No.: 157 Filing Agency: OCTOBER 8, 1991

Certified:

Further to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWED: *James E. Dyer* Noted and Approved: *Robert W. Bowling*
Special Inspection Division Fire Prevention Bureau

JP/BEK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management

DATE: October 16, 1991

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for October 8, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 142, 144, 149, 150, 151, 152, 153, 157, and 158.

For Item 145, a minor subdivision is proceeding now. Our comments will be addressed through that process.

For Item 146, see the County Review Group comments dated August 12, 1991 for this site.

For Item 149, we have no comment on the garage height variance. However, regarding the existing pool, the road grade or horizontal alignment must be revised so that no retaining wall is needed or that the wall is far enough away from the right-of-way such that failure would not impact the right-of-way.

Robert W. Bowling
ROBERT W. BOWLING, P.E., CHIEF
Developers Engineering Division

EWB:s

Baltimore County Government
Zoning Commission
Office of Planning and Zoning
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 7, 1992

Ms. Emma G. Ayers
3932 Glenhurst Road
Baltimore, Maryland 21222

Case No. 92-139-A
Petition for Zoning Variance
3934 Glenhurst Road

Dear Ms. Ayers:

I am in receipt of your letter dated July 12, 1992 regarding the above captioned case. I have, again, reviewed the file which relates to the Petition for Zoning Variance filed by your neighbor, Jane E. Rau, for that property known as 3934 Glenhurst Road.

According to my file, this case came before me for a hearing on November 26, 1991. At that time, Ms. Rau appeared, testified and was represented by Ronald A. Decker, Esquire. Further, you did not appear to testify in this matter, although your interests were represented by attorney Sharon L. Guida. Further testimony was received from Joseph Larson, a Professional Engineer and Land Surveyor. Further, after considering all of the testimony and evidence presented, I decided that the variance should be granted and so ordered. A copy of my opinion and Order granting the variance dated January 13, 1992 is enclosed herewith.

Subsequent to that Order, I received a letter from you dated February 5, 1992. That letter raises certain objections and comments relative to my Order. I treated that letter as a request for reconsideration of my decision. Thus, an amended Order was issued by me after consideration of your letter. My amended Order was dated February 19, 1992 and a copy of same is, likewise, enclosed herewith.

Baltimore County Government
Zoning Commission
Office of Planning and Zoning
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-1386

February 18, 1992

Mrs. Emma G. Ayers
3932 Glenhurst Road
Baltimore, Maryland 21222-2833

RE: Petition for Zoning Variance
Case No. 92-139-A
Jane E. Rau, Petitioner

Dear Mrs. Ayers:

This is to acknowledge receipt of your letter dated February 5, 1992 and received on February 13, 1992. I have treated your letter as a Motion for Reconsideration. My opinion denying your request is attached hereto and is self explanatory.

In the event the decision rendered is unfavorable to you or any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Amended Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mmn

cc: Ronald A. Decker, Esquire
cc: Mrs. Jane E. Rau
cc: Sharon L. Guida, Esquire

111 West Chesapeake Avenue
Towson, MD 21204

887-4354

October 24, 1991

Tanner P. Rau
3934 Glenhurst Road
Baltimore, MD 21222

Re: CASE NUMBER: 92-139-A

Dear Petitioners:

A formal REQUEST FOR PUBLIC HEARING has been filed in your case.

As you recall, this matter must now go through the regular hearing process; the property must be reported and notice of the hearing will be placed in two local newspapers. You will be billed for these advertising costs.

Formal notification of the hearing date will be forwarded to you shortly.

Very truly yours,

Zoning Commissioner
Baltimore County, Maryland

cc: Ronald A. Decker, Esq.

111 West Chesapeake Avenue
Towson, MD 21204

October 3, 1991

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning and Zoning

COPY

887-4354

Jane E. Rau
3934 Glenhurst Road
Baltimore, Maryland 21222

Re: CASE NUMBER: 92-139-A
LOCATION: N/8 Glenhurst Road, 224' W of c/1 Edgewater Place
3924 Glenhurst Road
15th Election District - 7th Councilmanic

Dear Petitioner(s):

Please be advised that your Petition for Administrative Zoning Variance has been assigned the above case number. Any contact made with this office should reference the case number. This letter also serves as a reletter regarding the administrative process.

1) Your property will be posted on or before October 13, 1991. The closing date is October 26, 1991. The closing date is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. At that time, an Order will issue. This Order may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.

2) In cases requiring public hearing (whether due to a neighbor's formal request or by order of the Commissioner), the property will be reported and notice of the hearing will appear in two local newspapers. Charges related to the reporting and advertising are payable by the petitioner(s).

3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$50.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW AND THE DECISION MAKING PROCESS. WHEN THE ORDER IS READY IT WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION PRIOR TO BEING MAILED TO YOU.

Very truly yours,

G. G. Stephens

cc: Ronald A. Decker, Esq.

REQUEST FOR HEARING

335 Fee

TO THE ZONING COMMISSIONER FOR BALTIMORE COUNTY:

Re: Case Number: 92-139-A
Petitioner(s): JANE RAU
Location: 3934 GLENHURST RD

I/WE, EMMA AYERS

Reside(s) ----- (TYPE OR PRINT)

Legal Owners () Residents, of

3932 Glenhurst Road

Baltimore MD 21222 (301) 477-0572

City/State/Zip Code None
which is located approximately one (1) feet from the property which is the subject of the above petition, do hereby formally request that a public hearing be set in this matter.

Signature Emma Ayers Date 10-2-91

Kindly send duplicate copy of Notice of Hearing to:
Sharon L. Guida, Esq.
Wright, Constable & Skeen
250 W. Pratt St, 13th Fl.
Baltimore, MD 21201
Attorney for Emma Ayers

4376-92
5/10/92
to 13
of back
made first
copy of
March 7/92

Dear Commissioner Schmidt,

I am the petitioner for a zoning variance, case no. 92-139-A. According to my last letter, Emma Ayers had until the 19th of March, 1992 to file again. Since I have not heard any more, I assume the case is finally closed. The reason for this letter is to ask you if I could have one of my pictures back. This is one of the pigeon coop. I do not have the negative and would like to keep this in my

3934 Glenhurst Rd.
Baltimore, Md.
Feb. 5, 1992

Mr. Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
Suite 113 Courthouse
400 Washington Ave.
Towson, Md. 21204

Dear Mr. Schmidt,

On page 6 of your January 13, 1992 letter re Petition for Zoning Variance, I understand that for 30 days it is possible to reverse your decision.

There are several obvious discrepancies in Mrs. Jane Rau's verbatim statements, and I hope you can reconsider your decision. Some of the most obvious are:

See 92-139-A - Picture #1 (copy attached)

This shows a 6 foot high, 3 1/2 foot deep pigeon coop 2 1/2 feet from the property line, which had existed for 35 years. Where in this picture is the patio she erroneously states was there for 35 years? How could a patio with a 14 foot hole be built on a 7 foot slab of cement? Even her own picture you can see only the pigeon coop existed for 35 years - not the patio.

I have drawn in red the now existing 10 foot high gazebo built on a 14 foot slab of cement, added in June or July of 1991. (See 92-139-A below)

Mrs. Rau built a stone bulkhead and a cement base along her waterside. All trees had been removed.

See 92-139-A (copy attached)

In the middle of 1991, a second 7 foot long slab of cement was added to the first 7 foot long slab of cement. If she would have continued down from the first slab of cement, Mrs. Rau would have been approximately 2 1/2 feet from the property line. Instead she deliberately increased the width of the property line. Building tight against the property line with the roof overhanging my property.

If Mrs. Rau had obtained a permit, the Zoning Commission would have advised the normal 2 1/2 feet from the property line. Just because she built without a permit, is she exempt from the Zoning laws?

This is especially important because the assessor advised us earlier that waterfront property is valuable and we are highly assessed and highly taxed on 50 feet of waterfront property. In the present situation I really only have 49 feet, close and Mrs. Rau has 51 feet, one foot on which I pay high taxes.

Mr. Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
Suite 113 Courthouse
400 Washington Ave.
Towson, Md. 21204

Dear Mr. Schmidt,
Re: Your letter of Feb. 18, 1992
Motion for Reconsideration

May I respectfully request that you look at your letter to me in response to my letter, as you were given incorrect information.

On page 2, the "fact" is against Mrs. Rau's statements, not mine. As the Zoning Commission pointed out, Mrs. Rau died in 1990. At that time only a comparatively small pigeon coop existed 3 feet from my property. All the incorrect statements Mrs. Rau made about a patio built there for 35 years are quite evidently not true. The "front" yard existing for over 45 years into a "rear" yard by her word of mouth only. She did this to overcome the ban against any building being on the waterfront according to the "land deed. This is not new information but was in Mrs. Guida's (my lawyer) statement of Dec. 12, 1991 re my "Opposition to Request for Variance."

As I stated in the middle of 1991 Mrs. Rau, with a total disregard for all of her neighbors, constructed a building from the roof to the enlarged cement base with no time between. This structure is the only one on Glenhurst Rd. which obstructs the view of everyone along the river, but especially mine. When I sit in my front yard it obscures 1/3 of my waterfront view. She built it for her pleasure alone and its use in entertaining her friends with food and conversation with children running. It and the tight against and overhanging my property, will destroy, not only my view of the water, but the peace I have enjoyed for over 45 years with my friends.

Mrs. Rau has destroyed the unobstructed view of the waterfront that all neighbors have enjoyed. She has destroyed my view and quite which everybody should be able to enjoy on their own property. I am sure under the law this is my right.

Zoning Commission 7-12-92
Case No. 92-139-A

Will you please see that this letter reaches Mr. L. Schmidt since I have been awaiting a reply from him in which I advised he had received incorrect information, and wonder if he received it.

I purchased and hold a legal deed to a 50-foot waterfront property, which the County recognizes and charges me high taxes.

Is it within the power of the Zoning Commission by allowing my neighbor, Mrs. Rau, to build tight against my property and granting her the variance to take from me my 50-foot waterfront property, which is my privately owned property legally deeded to me?

I thought the Zoning Commission was to protect my property, not give away my legally owned property to a neighbor.

Please have the proper persons reconsider your decision, and restore to me my own property on which I own a legal deed.

Thank you

Emma G. Ayers

Copy to:
Mr. Guido Guarnaccini ✓
Mr. Wulensky ✓

Another of her incredible lies is that she built the patio and later the roof. How could she build a patio on a case which according to her own admission was not poured until the middle of 1991? If it had been there, I certainly would have called the Zoning Commission immediately but there was nothing there.

Glenhurst Rd.
Md. 21222

RECEIVED
MAR 1992
ZONING COMMISSIONER

Because the reduced waterfront property was not properly surveyed.

8, 1992 and standing would have been

over the gazebo there is not was operating which is a violation of the

improvement position of the however, I lost since I was

MEMORANDUM FOR THE RECORD
DATE: December 13, 1991
TO: Zoning Commission
FROM: Lawrence E. Schmidt
SUBJECT: Case No. 92-139-A
Petitioner: Jane E. Rau

December 13, 1991

Honorable Lawrence E. Schmidt
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 92-139-A
Petitioner: Jane E. Rau

Dear Commissioner Schmidt:

On November 26, 1991, a hearing was held in the captioned matter. A hearing was held because a protest was filed by Emma G. Ayers. The Protest was represented at the hearing by Sharon L. Guida, Esquire, however, Ms. Ayers did not appear.

At the conclusion of the hearing, Ms. Guida requested that she be provided an opportunity to provide a brief. You advised the parties that you would accept our comments, if we decided to submit them. This letter is being submitted as a brief summary of Petitioner's case.

Baltimore County Zoning Regulations require accessory structures to be 2-1/2' from side property lines. At the time Mr. Rau acquired the property in 1956, there was a shed in the rear yard and a concrete block building in the front yard, near the shoreline, that were within 2-1/2' of the Rau/Ayers property line. A coop was on the roof of the concrete block building.

After Mr. Rau's death in January 1990, Mrs. Rau had to replace the shed, and remove the termite-infested coop. In May 1990, Mrs. Rau decided to extend the concrete slab roof of the Ayers block building to eliminate an erosion problem near the Ayers property line. A hand rail was installed around the concrete slab to keep people from falling off and injuring themselves, thus creating a patio.

READ A. McCAFFREY
C. GORDON HAINES
THOMAS F. COOPER, JR.
P. MEVOY CROWELL
JOHN A. SCALDARA
JOHN BRENNAN POWELL, JR.
B. MARVIN POTLER
MICHAEL J. ABRAMOWITZ
JAMES W. CONSTABLE
MICHAEL C. WARLOW
DAVID W. SKEEN
JAMES D. SKEEN
KENNETH F. DAVIES
SHARON L. GUIDA
STEPHEN F. WHITE
BRIAN S. GOODMAN
STEPHEN P. KAUFFMAN

WRITER'S DIRECT DIAL NUMBER

(410) 659-1320

VIA FEDERAL EXPRESS

Baltimore County Office of Planning
and Zoning
111 West Chesapeake Avenue
Towson, Maryland 21204

Attention: Lawrence E. Schmidt, Zoning Commissioner

Re: N/S Glenhurst Road 224' West of 11 Edgewater Place
3924 Glenhurst Road
15th Election District
Petitioner: Jane E. Rau

Dear Mr. Schmidt:

Enclosed for filing in the above matter please find the Memorandum in Support of Emma Ayers' Opposition to Request for Variance.

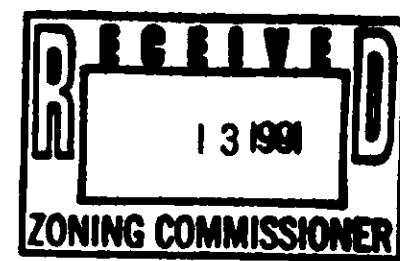
Sincerely,

Sharon L. Guida

SLG/as
Enclosure
CC: Emma Ayers
1981K (28)

WRIGHT, CONSTABLE & SKEEN
ATTORNEYS AT LAW
250 WEST PRATT STREET, 13TH FLOOR
BALTIMORE, MARYLAND 21201-2423
TELEPHONE (301) 539-5541
FAX (301) 559-1350

December 12, 1991



RICHARD J. ROGERS
LOIS A. F. HERRICK
FREDERICK L. KORB
DOUGLAS H. SEITZ
PAUL F. EVLUS
WENDY A. KRONMILLER
OF COUNSEL
GEORGE W. CONSTABLE
EMMA S. ROBERTSON
WILLIAM A. SKEEN
WM. PEPPER CONSTABLE
1883-1878
JOHN D. WRIGHT
1803-1878

*ADMITTED IN D.C. AND MARYLAND

THE ZONING COMMISSION
CASE NO.: 92-139A
ZONING COMMISSIONER: LAWRENCE
E. SCHMIDT

N/S GLENHURST ROAD 224' WEST OF
11 EDGEWATER PLACE
3924 GLENHURST ROAD, 15TH
ELECTION DISTRICT
PETITIONER: JANE E. RAU

MEMORANDUM IN SUPPORT OF EMMA AYERS'
OPPOSITION TO REQUEST FOR VARIANCE

INTRODUCTION

Petitioner has requested a variance to allow a shed to be located six inches from the side property line in lieu of the required 2 1/2 feet and to allow a gazebo to be located in the front yard on the property line in lieu of being located in the rear yard with a side setback of 2 1/2 feet. Emma Ayers, who lives at 3932 Glenhurst Road, opposes the Petitioner's Request on the grounds that the Petitioner has failed to meet her burden of showing that the exception to the side setback requirement is necessary, that the opponent may suffer property damage if the variance is granted and that the location of the gazebo in the front of the yard, as it violates restrictive covenants, does not benefit the community.

FACTS

The Petitioner has owned the property known as 3934 Glenhurst Road since 1956, which is located along the south side of the Back River. The front of the house faces the river and the rear of the property runs along Glenhurst Road. A concrete block structure was constructed into the embankment at the shoreline and later a chicken coop was added on top of the block structure. After the death of her husband on

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Jane E. Rau	3934 Glenhurst Road
Emma Ayers	3932 Glenhurst Road
Sharon L. Guida	Baltimore, Md 21204

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Jane E. Rau	3934 Glenhurst Road
Emma Ayers	3932 Glenhurst Road
Sharon L. Guida	Baltimore, Md 21204

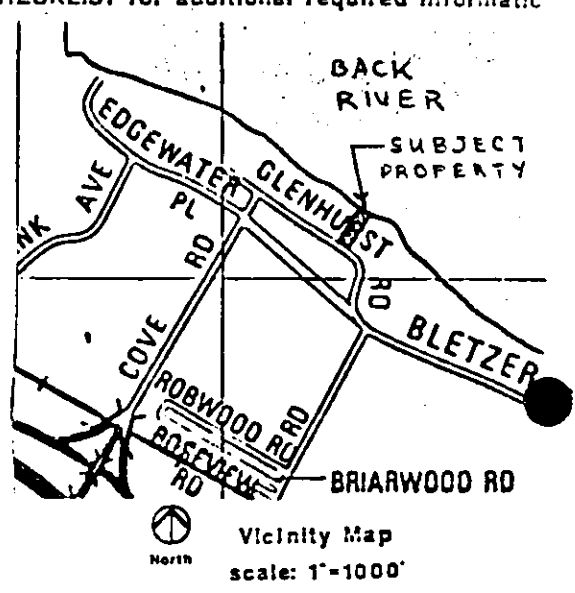
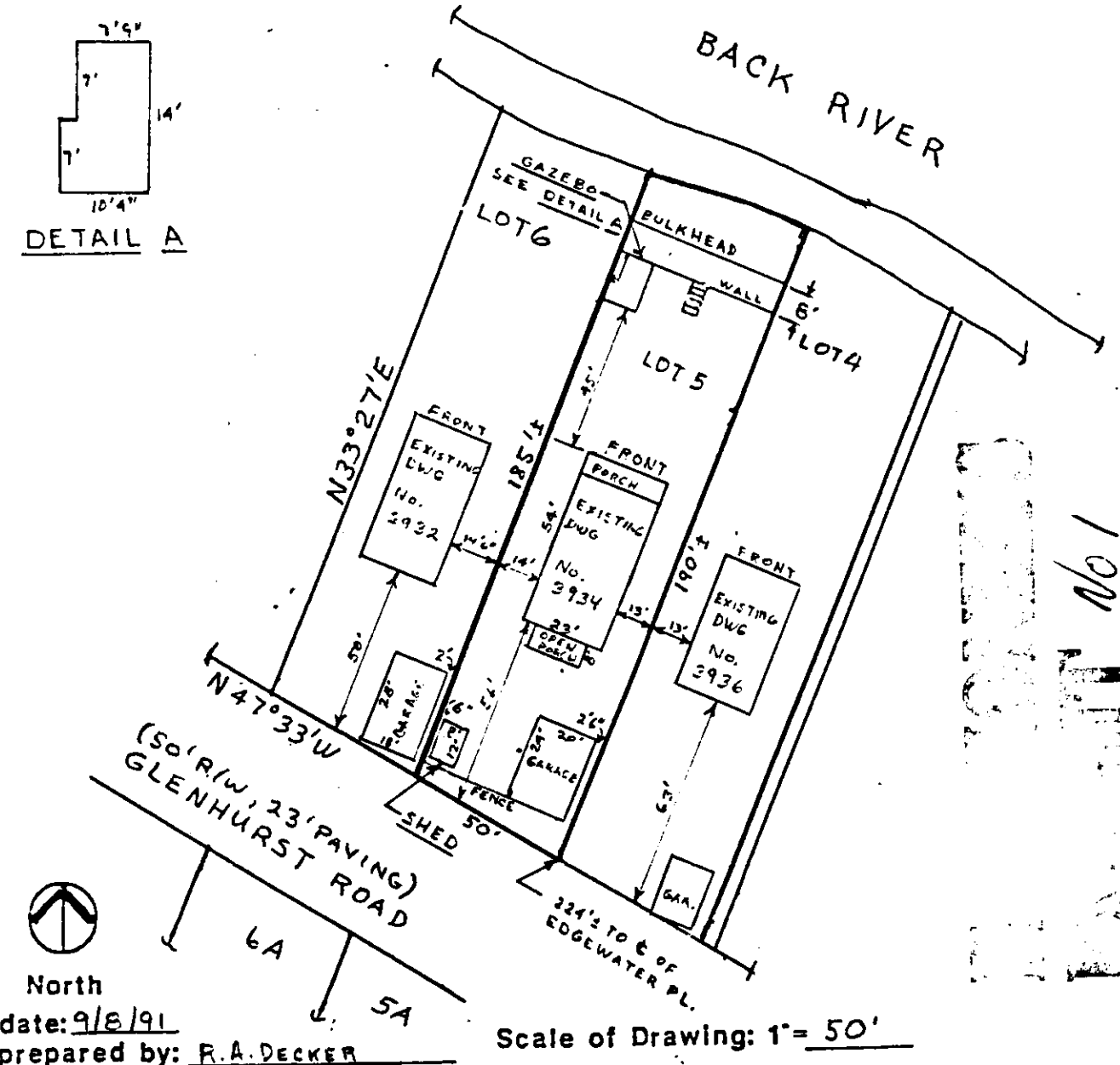
Plat to accompany Petition for Zoning Variance Special Hearing

PROPERTY ADDRESS: 3934 Glenhurst Road

Subdivision name: Glenhurst
plat book 12, folio 22, lot 5, section 5

OWNER: Jane Rau

92-139-A



LOCATION INFORMATION

Councilman's District: 7
Election District: 15
1"=200' scale map: S.E. 2-G
Zoning: D.R. S-5
Lot size: 0.215 9350
acreage square feet

SEWER: ☒ ☐
WATER: ☒ ☐
Chesapeake Bay Critical Area: ☒ ☐

Prior Zoning Hearings: NONE

Zoning Office USE ONLY!

reviewed by: LG CASE#

LG 157

Background

In 1956, Earl J. Rau and Josephine H. Rau purchased the improved property known as 3934 Glenhurst Road. It is located along the south shore of Back River. The front of the house faces the river, and the rear of the property runs along a 50' wide right of way for Glenhurst Road. A frame shed was located two feet from the west property line (see attached copy of a location survey by Bacharach & Bacharach dated July 7, 1956).

There existed at that time a concrete block structure 7'9" by 7'0" constructed close to the shoreline in front of the house. It is only two feet from the west property line. At a subsequent date a frame coop was built on top of the block structure (see picture No. 1).

Over the years there have been replacement sheds obtained for the rear yard as the old units deteriorated. The shed that was replaced by the present shed is shown in picture No. 2. It was situated so that there was only enough room to place two propane tanks next to the property line. When the current shed was erected in May 1991, the shed was moved back toward the property line adjacent to the garage at 3932 Glenhurst. A building inspector visited the site and required the installation of a gutter and downspout to direct rainwater from the roof so that it would not fall on the neighboring property. This was accomplished (see picture No. 3).

The coop on the shore side of the property became termite infested, and it had to be removed by the Petitioner. The concrete slab roof was extended toward the house, and also toward the property line to eliminate an erosion problem on the slope next to the block building. A railing was placed around the perimeter (see picture No. 4).

Shortly thereafter, the large tree that had provided shade was removed because of termite infestation. A canopy was erected to give relief from sunlight (see pictures No. 5 and No. 6).

1 Jane E. Rau, the Petitioner, obtained her interest in the subject property on November 20, 1979 when Earl R. Rau's ex-wife Josephine H. Rau conveyed her interest in the property to Earl and Jane Rau as tenants by the entireties. Mr. Rau died on January 29, 1990.

92-139-A

Petitioner's
Exhibits
3, 4 & 5
Photographs
is 92-139-A

